

REMARKS

Claims 1-3, 6-8, and 10-35 are currently pending in the subject application and are presently under consideration. Claims 1, 8, 10, 25, 29, and 32-35 have been amended, and claims 4-5 and 9 have been canceled as shown on pp. 2-6 of the Reply. The matter of the canceled claims has been incorporated into the independent claims from which they depended, and the other claims were amended to cure minor informalities.

Applicants' representative thanks Examiner Jung for the courtesies extended during the telephonic interview conducted on July 25, 2007, regarding the subject application, wherein proposed amendments to overcome the rejection under 35 U.S.C. § 103 and interpretation of the cited prior art references with respect to aspects of independent claims 1, 8, 25, 29, and 32-35 were discussed. No agreement was reached.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1-35 Under 35 U.S.C. §103(a)

Claims 1-35 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Arbaugh (William A. Arbaugh, *et al.*, *Automated Recovery in a Secure Bootstrap Process*, August 1, 1997, pp. 1-17) and Acpi (*Advanced Configuration and Power Interface Specification, Revision 2.0a*, Compaq/Intel/Microsoft/Phoenix/Toshiba, March 31, 2002) and Allgeuer (Robert Allgeuer, *Why Bother About BIOS Security?*, http://www.sans.org/reading_room/whitepapers/threats/108.php, 2001).

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation . . . in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) ***must teach or suggest all the claim limitations***. See MPEP §706.02(j). See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

The subject claims generally relate to facilitating BIOS integrated encryption; an interface is defined between an operating system and the BIOS. The operating system employs this interface to provide BIOS code information to facilitate decryption of data that is encrypted on the system and/or encryption of data (e.g., encryption algorithm). In the pre-operating system boot phase, the BIOS employs the decryption information provided from this interface in order to decrypt the data, (e.g., a hibernate file). (See Specification, paragraph starting at line 26, page 2). To this end, claim 1 (and similarly claims 8, 25, 29, and 32-35) recite: *a communication component that receives a request for decryption information from a BIOS component during an operating system boot process occurring after a hibernate mode*. The cited references fail to teach or suggest such claimed aspects.

Acpi merely shows multiple power levels. Allgeuer merely describes attempts toward cracking BIOS passwords. Arbaugh merely describes a cryptographic certificate authority and declare that they define a guaranteed secure boot process. However, the cited references are silent in regard to the aforementioned features of applicants' claims. In particular, the cited references, alone or in combination, do not provide for the functionality of employing decryption information from a BIOS component during an operating system boot process occurring *after a hibernate mode* as in applicants' claims. As discussed in the interview, booting from a hibernate mode is faster and completely different than booting from a shut off mode. It is respectfully submitted that anything that slows down an after hibernate boot teaches away from being combined with the after hibernate boot.

Moreover, the Examiner fails to indicate a reason for rejecting claims 2-3, 6-7, 10-24, 26-28, and 30-31; rather, the Examiner merely points to one of the references, which at least does not teach the aspects of a hibernate mode (as recited in former claims 4-5 and 9 and incorporated into the independent claims). Furthermore, there is no teaching or suggestion to combine the references in the knowledge of one having ordinary skill in the art. Rather the Examiner is using applicants' disclosure for the motivation to combine, which is prohibited by the *Vaeck* opinion cited above. To this end, the Examiner offers no reason for combining the references other than the aspects they allegedly disclose, which is not sufficient motivation. (See Final Office Action

dated June 29, 2007, pages 2-4). Accordingly, rejection of claims 1-3, 6-8, and 10-35 should be withdrawn.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP484US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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